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OFFICE OF PETITIONS

In re Application of :
Michael Nauck, et al. :
Application No. 09/011,940 :
Filed: March 3, 1999 :
Attorney Docket No. 864861USWO :

ON PETITION

This is a response to the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 6, 2003, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.


The petition is **GRANTED**.


The above-identified application was held abandoned for failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). However, petitioner argues that a timely response was filed. Petitioner explain that a Request for Continued Examination (RCE), an Amendment and an appropriate extension of time were filed using a certificate of facsimile transmission under 37 CFR 1.8(a) dated June 28, 2002. A copy of the Auto-Reply Facsimile Transmission has been included with the evidence provided January 6, 2003. While the original documents filed by facsimile transmission cannot be located, the evidence is convincing that the documents were received by facsimile transmission on June 28, 2002, and subsequently misplaced in the USPTO.

Since no petition to revive under 37 CVFR 1.137(b) is necessary, the petition fee is being refunded to counsel's deposit account. The holding of abandonment is hereby withdrawn.

The application file is being returned to Technology Center 1600, Art Unit 1639 for further processing the RCE on June 28, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.


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